

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Nadine Gazzola, individually, and as co-owner, President, and as
BATFE Federal Firearms Licensee Responsible Person for Zero
Tolerance Manufacturing, Inc., et al.;

Plaintiffs,

-against-

KATHLEEN HOCHUL, in her official capacity as Governor of the
State of New York; STEVEN A. NIGRELLI, in his Official
Capacity as the Acting Superintendent of the New York State
Police; ROSSANA ROSADO, in her Official Capacity as the
Commissioner of the Department of Criminal Justice Services of
the New York State Police; and LETITIA JAMES, in her official
capacity as Attorney General of the State of New York.

Defendants.

**ATTORNEY
DECLARATION**

1:22-cv-1134
(BKS/DJS)

Aimee Cowan, pursuant to § 1746 of Title 28 of the United States Code, declares the
following to be true and correct under penalty of perjury under the laws of the United States of
America:

1. I am an Assistant Attorney General for the State of New York and appear in this
action on behalf of KATHLEEN HOCHUL, in her official capacity as Governor of the State of
New York; STEVEN A. NIGRELLI, in his Official Capacity as the (former) Acting
Superintendent of the New York State Police; ROSSANA ROSADO, in her Official Capacity as
the Commissioner of the Department of Criminal Justice Services of the New York State Police;
and LETITIA JAMES, in her official capacity as Attorney General of the State of New York
("Defendants"), in this action.

2. I make this Declaration in support of Defendants' motion to stay discovery, pending
resolution of Defendants' motion dismiss for lack of subject matter jurisdiction and lack of
standing pursuant to Fed. R. Civ. P. 12(b)(1) and Defendants' motion for judgment on the

pleadings pursuant to Fed. R. Civ. P. 12 (c). See ECF No. 104.

RELVANT FACTUAL AND PROCEDURAL HISTORY

3. On November 1, 2022, Plaintiffs filed their Complaint for the instant matter. (ECF No. 1). In this case, several New York-based gun dealers challenge a host of state laws pertaining to the sale and purchase of firearms, including, *inter alia*, requirements for background checks, safe storage, employee training, and record-keeping, as well as compliance certification requirements. Plaintiffs assert their claims against four individually named defendants: “KATHLEEN HOCHUL, in her official capacity as Governor of the State of New York, STEVEN A. NIGRELLI, in his official capacity as the Acting Superintendent of the New York State Police, ROSSANA ROSADO, in her official capacity as the Commissioner of the Department of Criminal Justice Services of the New York State Police, and LETITIA JAMES, in her official capacity as the Attorney General of the State of New York.” (ECF No. 1, generally).

4. On November 8, 2022, Plaintiffs filed a motion seeking a preliminary injunction and/or temporary restraining order. (ECF No. 13). Defendants responded to Plaintiffs’ motion (ECF No. 29), Plaintiffs filed a reply (ECF No. 33) and the Court held an evidentiary hearing on December 1, 2022. This Court ultimately denied Plaintiffs’ motion. (ECF No. 42). Plaintiffs appealed the decision to the Second Circuit, and the Second Circuit affirmed this Court’s decision on December 8, 2023. See Gazzola v. Hochul, 88 F.4th 186 (2d Cir. 2023).

5. Defendants answered Plaintiffs’ Complaint on March 21, 2024 (ECF No. 79). Rule 26 Disclosures have been exchanged by the parties and while the parties exchanged discovery demands on October 4, 2024, they have not engaged in any further discovery. See ECF No. 101. Defendants filed a motion to dismiss Plaintiffs’ Complaint in its entirety pursuant to Fed. R. Civ. P. 12(b)(1) and 12(c) for lack of subject matter jurisdiction, lack of standing and failure to state a

claim. ECF No. 104. For the reasons stated in Defendants' accompanying memorandum of law, Defendants respectfully request that discovery be stayed pending resolution of this motion.

6. A copy of Plaintiffs' Rule 34 Document Demands served on Defendant Governor Kathy Hochul is attached as **Exhibit A**.

7. A copy of Plaintiffs' Rule 34 Document Demands served on the New York State Police is attached as **Exhibit B**.

8. A copy of Plaintiffs' counsel's discovery demands cover letter dated October 4, 2024, is attached as **Exhibit C**.

9. A copy of an email dated October 3, 2024, from Plaintiffs' counsel regarding further discovery is attached as **Exhibit D**.

Dated: November 1, 2024
Syracuse, New York

s/ Aimee Cowan
Aimee Cowan, Esq.
Assistant Attorney General